

153 FERC ¶ 61,348
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

C.P. Crane LLC

Docket Nos. ER16-259-000
ER16-332-000

EL16-21-000

ORDER ACCEPTING RATE SCHEDULE, INSTITUTING SECTION 206
PROCEEDING, AND ESTABLISHING HEARING AND SETTLEMENT JUDGE
PROCEDURES

(Issued December 29, 2015)

1. On November 4, 2015, in Docket No. ER16-259-000, C.P. Crane LLC (C.P. Crane) submitted, pursuant to section 205 of the Federal Power Act (FPA),¹ a proposed Reactive Power Tariff.² Also on November 4, 2015, in Docket No. ER16-332-000, C.P. Crane submitted an informational filing (Informational Filing) pursuant to Schedule 2 of the PJM Interconnection, L.L.C. (PJM) Open Access Transmission Tariff (Tariff).³ In this order, we accept for filing C.P. Crane's proposed Reactive Power Tariff,

¹ 16 U.S.C. § 824d (2012).

² C.P. Crane LLC, CP Crane MBR Tariff, Reactive Rate Tariff, Reactive Rate Schedule FERC No. 2, 1.0.0.

³ We take this opportunity to clarify the Commission filing requirements for utilities making informational filings under Schedule 2. Utilities that have established an eTariff for reactive power should make their informational filing using eTariff Type of Filing Code 80 (Compliance Filing) using the same filing number used for the reactive power tariff. This will assure that the filing receives a subdocket related to the original reactive power tariff filing. Companies whose reactive power tariffs are not yet in eTariff also should make their informational filing using eTariff Type of Filing Code 80 (Compliance Filing), without a referenced filing number, and are encouraged to put their current reactive power rate schedule into eTariff in the same filing. In addition,

(continued...)

to become effective January 3, 2016, and institute a proceeding pursuant to section 206 of the FPA⁴ to examine the justness and reasonableness of the reactive power rate schedule.

I. C.P. Crane's Filing

2. Schedule 2 of the PJM Tariff, which covers Reactive Service, provides that PJM will compensate owners of generation and non-generation resources for maintaining the capability to provide reactive power to PJM. Specifically, Schedule 2 states that, for each month of Reactive Service provided by generation and non-generation resources in the PJM region, PJM shall pay each resource owner an amount equal to the resource owner's monthly revenue requirement, as accepted or approved by the Commission.⁵

3. C.P. Crane states that it is currently a recipient of Reactive Service payments from PJM, as initially established before the advent of eTariff. C.P. Crane states that, while Schedule 2 does not require C.P. Crane to submit a FPA section 205 filing, as it has in Docket No. ER16-259-000, C.P. Crane prefers to have its Reactive Power Tariff on file via eTariff to facilitate the contemplated transfer.⁶ C.P. Crane requests that the Commission accept C.P. Crane's Reactive Power Tariff January 3, 2016.

4. The Informational Filing states that C.P. Crane is a direct owner of the C.P. Crane Generating Station (Facility) and currently receives a revenue requirement for Reactive Service of \$622,500 from PJM.⁷ The Informational Filing states the revenue requirement for the Facility was originally part of Constellation Power Source Generation, Inc.'s (Constellation) revenue requirement established in Docket No. ER97-3189-002.⁸ The Informational Filing states that C.P. Crane acquired the Facility in November 2012 from

we encourage companies with reactive power rate schedules who are currently in the M (market based rate) program in company registration to change their program registration to the E (traditional cost of service).

⁴ 16 U.S.C. § 824e (2012).

⁵ PJM, Intra-PJM Tariffs, OATT, Schedule 2 (3.1.0).

⁶ C.P. Crane's November 4, 2015 Transmittal Letter (Transmittal Letter) at 1.

⁷ Informational Filing at 2.

⁸ *Id.*

Constellation.⁹ The Informational Filing states that, as part of the November 2012 acquisition,¹⁰ the annual revenue requirement, which had been part of the Constellation's fleet annual revenue requirement, was transferred to C.P. Crane.¹¹ Further, the Informational Filing states that Talen Energy Supply, LLC, an indirect, wholly owned subsidiary of Talen Energy Corporation, acquired the interests in C.P. Crane on June 1, 2015.¹²

5. The Informational Filing states that: the actual (site-rated) megavolt-ampere reactive (MVAR) capability for the Facility's three units combined is 133.6 MVARs,¹³ while the nameplate MVAR rating is 257.7 MVARs; the megavolt-ampere (MVA) capability for the three units combined is 446.7 MVAs (gross value), while the nameplate MVA rating is 489.2 MVAs;¹⁴ and also the megawatt (MW) capability of each generator for the three units combined is 425.2 MWs, while the nameplate MW rating is 415.8 MWs.

⁹ Under Order No. 714, when existing tariffs or agreements need to be modified to reflect changes in names or ownership, the utility is required at the time of the transaction to make a baseline filing to include the tariff or agreement in eTariff. Electronic Tariff Filings, Order No. 714, FERC Stats. & Regs. ¶ 31,276, at P 93 (2008). C.P. Crane, therefore, should have filed its reactive power tariff in eTariff when it acquired the Facility from Constellation in 2012.

¹⁰ Informational Filing at 2 (citing *Constellation Power Source Generation, Inc.*, 141 FERC ¶ 62,017 (2012); *Constellation Power Source Generation, Inc.*, Docket No. EC12-137 (Nov 30, 2012)). C.P. Crane states that Constellation divested certain of its generation assets as a condition of the merger of Exelon Corporation and Constellation Energy Group, Inc. See *Exelon Corporation*, 138 FERC ¶ 61,167 (2012)).

¹¹ *Id.* at 3.

¹² See *PPL Corporation*, 149 FERC ¶ 61,260 (2014); PPL Corp., Notice of Consummation, Docket No. EC14-112-000 (filed Jun. 1, 2015).

¹³ The Informational Filing states the MVAR capability is determined by PJM's eDart test methodology, and that the test results for these units do not reflect their true capability. Informational Filing at 5.

¹⁴ *Id.*

II. Notice and Responsive Pleadings

6. Notice of C.P. Crane's Reactive Power Tariff filing was published in the *Federal Register*, 80 Fed. Reg. 69,957 (2015), with interventions and protests due on or before November 25, 2015. PJM submitted a timely motion to intervene.

7. Notice of C.P. Crane's Informational Filing was published in the *Federal Register*, 80 Fed. Reg. 72,956 (2015), with interventions and protests due on or before November 25, 2015. None were filed.

III. Discussion

A. Procedural Matters

8. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2015), PJM's timely, unopposed motion to intervene serves to make it a party to this proceeding.

B. Substantive Matters

9. We find that C.P. Crane's revenue requirement for Reactive Service provided by the Facility, as identified in the Informational Filing, raises issues of material fact that cannot be resolved based on the record before us, and that are more appropriately addressed in hearing and settlement judge procedures. Although we are setting the proposed Reactive Power Tariff for hearing in its entirety, we note that the Informational Filing contains information that raises concerns that the Facility's MVAR capability has significantly degraded from the MVAR capability that was originally used to calculate the revenue requirement for Reactive Service included in C.P. Crane's Reactive Power Tariff. While we will accept C.P. Crane's proposed Reactive Power Tariff for filing, to be effective January 3, 2016, as requested, we institute a section 206 proceeding in Docket No. EL16-21-000, establish a refund effective date, and establish hearing and settlement judge procedures.

10. In cases where, as here, the Commission institutes a section 206 investigation on its own motion, section 206(b) of the FPA requires that the Commission establish a refund effective date that is no earlier than the date of the publication by the Commission of notice of its intention to initiate such proceeding and no later than five months after the publication date.¹⁵ In such cases, in order to give maximum protection to customers, we have historically tended to establish the section 206 refund effective date at the earliest

¹⁵ 16 U.S.C. § 824e(b) (2012).

date allowed by section 206, and consistent with our precedent, we do so here as well.¹⁶ That date is the date of publication of notice of initiation of the section 206 proceeding in Docket No. EL16-21-000 in the *Federal Register*.

11. Section 206(b) of the FPA also requires that, if no final decision is rendered by the conclusion of the 180-day period commencing upon initiation of the section 206 proceeding, the Commission shall state the reason why it has failed to render such a decision and state its best estimate as to when it reasonably expects to make such a decision. As we are setting the section 206 proceeding in Docket No. EL16-21-000 for hearing and settlement judge procedures, we expect that, if the proceeding does not settle, we would be able to render a decision within eight (8) months of the date of filing of briefs opposing exceptions to the Initial Decision. Thus, if the Presiding Judge were to issue an Initial Decision by July 31, 2016, we expect that, if the proceeding does not settle, we would be able to render a decision by May 31, 2017.

12. While we are setting these matters for a trial-type evidentiary hearing, we encourage the participants to make every effort to settle their dispute before hearing procedures commence. To aid the participants in their settlement efforts, we will hold the hearing in abeyance and direct that a settlement judge be appointed, pursuant to Rule 603 of the Commission's Rules of Practice and Procedure.¹⁷ If the participants desire, they may, by mutual agreement, request a specific judge as the settlement judge in the proceeding; otherwise the Chief Judge will select a judge for this purpose.¹⁸ The settlement judge shall report to the Chief Judge and the Commission within thirty (30) days of the date of the appointment of the settlement judge, concerning the status of settlement discussions. Based on this report, the Chief Judge shall provide the participants with additional time to continue their settlement discussions or provide for commencement of a hearing by assigning the case to a presiding judge.

¹⁶ See, e.g., *Idaho Power Company*, 145 FERC ¶ 61,122 (2013); *Canal Electric Co.*, 46 FERC ¶ 61,153, *order on reh'g*, 47 FERC ¶ 61,275 (1989).

¹⁷ 18 C.F.R. § 385.603 (2015).

¹⁸ If the participants decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 502-8500 within five (5) days of this order. The Commission's website contains a list of Commission judges available for settlement proceedings and a summary of their background and experience (<http://www.ferc.gov/legal/adr/avail-judge.asp>).

The Commission orders:

(A) C.P. Crane's proposed Reactive Power Tariff is hereby accepted for filing, to become effective January 3, 2016, as discussed in the body of this order.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by section 402(a) of the Department of Energy Organization Act and by the FPA, particularly section 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the FPA (18 C.F.R. Chapter I), the Commission hereby institutes a proceeding in Docket No. EL16-21-000, concerning the justness and reasonableness of C.P. Crane's reactive power revenue requirement, as discussed in the body of this order. However, the hearing shall be held in abeyance to provide time for settlement judge procedures, as discussed in Ordering Paragraphs (C) and (D) below.

(C) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2015), the Chief Judge is hereby directed to appoint a settlement judge in this proceeding within fifteen (15) days of the date of this order. Such settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable after the Chief Judge designates the settlement judge. If the participants decide to request a specific judge, they must make their request to the Chief Judge within five (5) days of the date of this order.

(D) Within thirty (30) days of the appointment of the settlement judge, the settlement judge shall file a report with the Commission and the Chief Judge on the status of the settlement discussions. Based on this report, the Chief Judge shall provide the participants with additional time to continue their settlement discussions, if appropriate, or assign this case to a presiding judge for a trial-type evidentiary hearing, if appropriate. If settlement discussions continue, the settlement judge shall file a report at least every sixty (60) days thereafter, informing the Commission and the Chief Judge of the participants' progress toward settlement.

(E) If settlement judge procedures fail and a trial-type evidentiary hearing is to be held, a presiding judge, to be designated by the Chief Judge, shall, within fifteen (15) days of the date of the presiding judge's designation, convene a prehearing conference in these proceedings in a hearing room of the Commission, 888 First Street, NE, Washington, DC 20426. Such a conference shall be held for the purpose of establishing a procedural schedule. The presiding judge is authorized to establish procedural dates, and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish in the *Federal Register* a notice of the Commission's initiation of the proceeding in Docket No. EL16-21-000 under section 206 of the FPA.

(G) The refund effective date in Docket No. EL16-21-000 established pursuant to section 206 of the FPA shall be the date of publication in the *Federal Register* of the notice discussed in Ordering Paragraph (F) above.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.